

ZONING BOARD OF APPEALS

Tuesday, March 18, 2008
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Alice Howard
Fred Money
William Orr
Tom Przytulski (arrived at 6:45)
Julio Salgado
Craig Sockwell

Absent: Dan Roszkowski

Staff: Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Administrative Assistant
Kerry Partridge – City Attorney
Reid Montgomery – Director, Community & Economic Development

Others: Alderman Doug Mark (arrived at 6:57 PM)
Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 6:35 P.M. A **MOTION** was made by William Orr to **APPROVE** the minutes of the February 20, 2008 meeting as submitted. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 5-0 with Dan Roszkowski and Tom Przytulski absent.

004-08 **175 Executive Parkway**
Applicant First Rockford Group
Ward 1 **Variation** to increase maximum freestanding business sign height to 30 feet
 Variation to increase sign area to 320 square feet in the C-2, Commercial Community District
 Laid Over from February meeting

Prior to the meeting, a written request was received from the Applicant to Lay Over this item to the April 15th meeting.

A **MOTION** was made by Fred Money to **LAY OVER** the Variation to increase maximum freestanding business sign height to 30 feet; and the Variation to increase sign area to 320 square feet in the C-2, Commercial Community District at 175 Executive Parkway. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

008-08 **635 South Mulford Road**
Applicant Milestone, Inc.
Ward 14 **Special Use Permit for a Planned Residential Development** for eight (8) dwelling units for individuals with developmental disabilities, one (1) dwelling unit for a live-in manager, and staff offices in an R-1, Single-family Residential Zoning District

The subject property is approximately 3 acres located on South Mulford Road between East State Street and Newburg Road and consists of two lots. One is a vacant parcel and the other has a single family residence. James P. Hamilton, President & CEO of Milestone, reviewed the request for Special Use

Permit. He explained that Milestone has 40 locations in the Rockford area, 30 which are group homes for developmental disabled. This building will have 9, 1-bedroom apartments for 8 individuals and a live-in manager. He explained residents living at the facility do not drive. Vans will be on site to transport individuals to various functions.

Staff Recommendation was for Approval with 6 conditions. One Objector was present. Mark Mercer, 977 Indian Terrace, not an adjacent property owner, stated he has housed a Milestone individual in the River District Apartments. He requested limits be put in place on the quality of people that will be living in the proposed development. Mr. Mercer explained that it was not until after this individual was placed in the River District Apartments that he found out the individual was one of the most violent persons Milestone has ever had. It was his understanding that Staff was attacked and broken bones were involved. He stated some of these people can be very strong and very violent and before moving them into a residential area they need to do background checks. In response, Mr. Hamilton stated he is not aware of the situation Mr. Mercer discussed, although he does not doubt his word and would be willing to meet with him further on this issue. He stated group homes do not have people driving up and down the street at 80 miles an hour and are generally good neighbors and care very much about the people they serve.

Mr. Cagnoni stated Staff has had an opportunity to review this proposal with Milestone and they are comfortable in agreement. He stated from personal experience there is a Milestone home in close proximity to his and there have been no problems with this home to his knowledge.

A **MOTION** was made by Fred Money to **APPROVE** the Special Use Permit for a Planned Residential Development for eight (8) dwelling units for individuals with developmental disabilities, one (1) dwelling unit for a live-in manager, and staff offices in an R-1, Single-family Residential Zoning District at 635 South Mulford Road. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 5-0. Because Mr. Przytulski arrived after the application was presented, he abstained from vote.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes
2. Development shall be restricted to the northerly 140 feet of the subject property
3. Submittal of a site plan for staff review and approval
4. Landscaping shall be as per Exhibit I, with final review and approval by staff
5. Submittal of an illumination plan for staff review and approval
6. Submittal of an elevation plan and final building materials for staff review and approval

ZBA 008-08
Findings of Fact for a Special Use Permit
For a Planned Residential Development
For Eight (8) Dwelling Units for Individuals with Developmental Disabilities,
One (1) Dwelling Unit for a Live-In Manager and Staff Offices
In an R-1, Single-Family Residential District at
635 South Mulford Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.

4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1, Single-Family Residential Zoning District in which it is located.

009-08 5411 East State Street

Applicant Lamar Advertising

Ward 14

Special Use Permit for the modification of an existing legally nonconforming billboard to an electronic graphic display billboard in a C-2, Commercial Community Zoning District

The subject property is located 420 feet east of the New Towne Drive and East State Street intersection. Tony Hickey, representing Lamar Outdoor Advertising, reviewed his request. This description for this item is the same as ZBA Items 010-08 and 011-08. This is an existing sign. He explained the new sign would be the exact same dimensions as the existing sign. They will have the ability to change these signs via computer. Mr. Hickey provided a list of locations where the Applicant proposes to remove signs prior to the installation of these new ones, as requested by Staff.

Regarding the removal of the sign after 7 years that is an added condition on all three items, Mr. Hickey stated Lamar is not in agreement with this. He stated each structure costs over \$300,000 and it will take the Applicant approximately 5 years to break even. He is requesting that the sign be allowed to stay at each location forever once they are in place.

Tom Przytulski asked if the proposed new sign needs to be smaller in accordance with the new sign ordinance. Mr. Cagnoni explained thus far one billboard has been installed on North Main Street by Lamar in conformance with the new sign ordinance. The applicant has the opportunity to apply for a Special Use Permit to change an existing billboard to an electronic billboard of the same size, which is what they are doing. Mr. Cagnoni stated any sign over 36 square foot in size requires a Special Use Permit, which is the situation here. He clarified that after 7 years the applicant would have to remove the sign or come back before the Board and Council. Mr. Hickey further explained the proposed electronic signs will not flash or roll – they change instantaneously so should not be distracting to motorists. The signs will change every ten seconds. Mr. Hickey stated Lamar felt it did not make sense to remove other signs and install this and other electronic signs and have a limitation on their existence.

To clarify condition #5, Mr. Cagnoni explained that the existing billboard is non-conforming because of the size and because in this case it is in a scenic corridor. Condition #5 clarifies that the proposed billboard would still be non-conforming. Mr. Cagnoni stated he did not have discussion with Lamar or Mr. Hickey regarding the issue of 7 year limitation on the electronic sign. Staff felt in 7 years the Applicant would recover their cost and show profits.

Staff Recommendation was for Approval with 5 conditions. No Objectors were present.

Tom Przutulski suggested adding a condition to insure the sign operate in conformance with sign regulations for electronic graphic display. The Board was in agreement to adding this condition. Alice Howard felt it was also reasonable to allow a condition on limitation on this type of signage of 7 years rather than allow any sign to go on forever. Mr. Sockwell was also in agreement.

Mr. Orr asked what the difference was between allowing a sign to continue forever and a liquor license continuing forever on a property. Mr. Cagnoni explained liquor license are not allowed to continue in perpetuity either, and that a liquor license is no longer tied to the property, which is why the Liquor Advisory Board was formed.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for the modification of an existing legally nonconforming billboard to an electronic graphic display billboard in a C-2, Commercial Community Zoning District at 5411 East State Street with added condition 6. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-1 with William Orr voting Nay.

Approval is subject to the following conditions:

1. Meet all building and fire codes
2. An Agreement should be made on the number and location of existing billboards to be removed
3. Submittal of Building Permit for Staff review and approval
4. The Special Use Permit shall lapse after 7 years and the electronic graphic display sign shall be removed or the City Council shall approve a Special Use Permit extending the time period allowed for the electronic graphic display sign
5. That the billboard shall remain a non-conforming billboard
6. The billboard operate in conformance with the sign regulations for electronic graphic display

ZBA 009-08
Findings of Fact for a Special Use Permit
For the Modification of an Existing Legally Nonconforming Billboard
To an Electronic Graphic Display Billboard
In a C-2, Commercial Community Zoning District at
5411 East State Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-2 Zoning District in which it is located.

010-08 Applicant Ward 1	<u>8539 East State Street</u> Lamar Advertising Special Use Permit for the modification of an existing legally nonconforming billboard to an electronic graphic display billboard in an R-1, Single-Family Residential Zoning District
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The subject property is located 375 feet east of the East State Street and University Drive intersection. Mr. Hickey stated this application is similar to the previous application except at a different location. He again asked that the time limitation of 7 years be removed.

Mr. Cagnoni reiterated Staff's desire to maintain condition 4 limiting the time frame of 7 years with the opportunity to request another Special Use Permit. The Board was also in agreement to the addition of condition 6 stating the electronic sign must remain in conformance with sign regulations.

Staff Recommendation was for Approval with 5 conditions. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for the modification of an existing legally nonconforming billboard to an electronic graphic display billboard in an R-1, Single-Family Residential Zoning District at 8539 East State Street with added condition 6. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-1 with William Orr voting Nay.

Approval is subject to the following conditions:

1. Meet all building and fire codes
2. An Agreement should be made on the number and location of existing billboards to be removed
3. Submittal of Building Permit for Staff review and approval
4. The Special Use Permit shall lapse after 7 years and the electronic graphic display sign shall be removed or the City Council shall approve a Special Use Permit extending the time period allowed for the electronic graphic display sign
5. That the billboard shall remain a non-conforming billboard
6. The billboard operate in conformance with the sign regulations for electronic graphic display

ZBA 010-08
Findings of Fact for a Special Use Permit
For the Modification of an Existing Legally Nonconforming Billboard
To an Electronic Graphic Display Billboard
In an R-1, Single-Family Residential Zoning District at
8539 East State Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1 Zoning District in which it is located.

011-08 Applicant Ward 4	<u>6439 East Riverside Boulevard</u> Lamar Advertising Special Use Permit for a modification of an existing legally nonconforming billboard to an electronic graphic display billboard in a C-2, Commercial Community Zoning District
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The subject property is located 375 feet east of the East Riverside Boulevard and Live Oak Lane intersection. As with the previous two requests, Mr. Hickey requested that condition 4 stating the sign be removed after 7 years or another Special Use Permit be applied for be removed.

Staff Recommendation was for Approval with 5 conditions. No Objectors were present. One letter of Objection was received from Roger C. Schmidt, DDS, who's letter states his office is located directly below the existing billboard and he feels the billboard makes it difficult for his clients to find his office.

The Board wished to add condition 6 regarding conformity with the sign ordinance for electronic signs.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for a modification of an existing legally nonconforming billboard to an electronic graphic display billboard in a C-2, Commercial Community Zoning District at 6439 East Riverside Boulevard with added condition 6. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-1, with William Orr voting Nay.

Approval is subject to the following conditions:

1. Meet all building and fire codes
2. An Agreement should be made on the number and location of existing billboards to be removed
3. Submittal of Building Permit for Staff review and approval
4. The Special Use Permit shall lapse after 7 years and the electronic graphic display sign shall be removed or the City Council shall approve a Special Use Permit extending the time period allowed for the electronic graphic display sign
5. That the billboard shall remain a non-conforming billboard
6. The billboard operate in conformance with the sign regulations for electronic graphic display

ZBA 011-08
Findings of Fact for a Special Use Permit
For the Modification of an Existing Legally Nonconforming Billboard
To an Electronic Graphic Display Billboard
In a C-2, Commercial Community Zoning District at
6439 East Riverside Boulevard

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-2 Zoning District in which it is located.

012-08

Applicant
Ward 9

4139-4143 Albright Lane

Wesley Willows Inc.

Special Use Permit for a Planned Mixed-Use Development consisting of a medical office to provide outpatient rehabilitation therapy in an R-2, Two-Family Residential Zoning District

The subject property is located approximately 710 feet east of North Rockton Avenue, on the east side of Albright Lane and consists of several two-family structures and a retirement facility. The Applicant owns and manages most of these structures. William T. Pratt, representing Wesley Willows, was present. Mr. Pratt explained the Applicant wishes to change an existing duplex into an outpatient rehabilitation therapy center. The surrounding property is also owned by Wesley Willows, Inc.

Staff Recommendation was for Approval with 4 conditions. No Objectors were present.

A **MOTION** was made by Fred Money to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development consisting of a medical office to provide outpatient rehabilitation therapy in an R-2, Two-Family Residential Zoning District at 4139-4143 Albright Lane. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes
2. The Public Works Department must approve proposed parking spaces
3. Submittal of a revised detail landscape plan for staff's review and approval
4. If garages were to be eliminated, an elevation plan would be required for staff's review and approval of replacement

ZBA 012-08
Findings of Fact for a Special Use Permit
For a Planned Mixed Use Development
For Medical Office to Provide Outpatient Rehabilitation Therapy
In an R-2, Two-Family Residential District at
4139-4143 Albright Lane

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community because the surrounding properties are owned and managed by the applicant.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the R-2 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-2 Zoning District and conditions of approval.

013-08

Applicant
Ward 3

977, 993, 995 North Main Street

Harbor Investments / Florian Guski

Modification of Special Use Permit #076-05 (Ordinance #2005-244-0) for a Planned Residential Development including a high-rise residential structure, to increase the number of dwelling until to 76 (seventy-six), to reduce the building height from 173 (one hundred seventy-three) feet to 150 (one hundred fifty) feet, to reduce the side yard setback for the north property line from 53 (fifty-three) feet to 30 (thirty) feet, and to reduce the side yard setback for the south property line from 53 (fifty-three) feet to 30 (thirty) feet in an R-4, Multifamily Residential District

The subject property is located approximately 30 feet southeast of the North Main Street and Franklin Place intersection, along the east side of North Main Street and the west side of the Rock River District and is currently vacant land. Florian Guski and Thomas Stacey were present. Mr. Guski stated he and Fried Corporation reviewed the original concept approved by the Zoning Board and City Council in 2005 and decided although the concept was economically feasible at the time it was present, it needs to be revised to meet today's economy. Mr. Stacey reviewed the modifications requested, stating the project is still in the conceptual stage at this point. He explained the side yard setbacks of 53 feet were causing difficulty in designing this residential high-rise structure. Overall height has been decreased by 25 feet and the number of overall dwelling units increased to 76, with 11,000 feet per floor. The majority of parking is underground and not visible to area residents. Mr. Hickey stated this revised project will have a very soft impact to neighboring properties and believes it will be buildable and saleable to today's market. He explained there will still be landscape buffers and screen walls at the street as well.

Alderman Doug Mark was present. He stated he appreciates the efforts Harbor Investments has made towards this project. He reiterated the original project has already been approved by the Zoning Board and City Council. He understands that there may still be some concerns within the neighborhood, but felt this application also means that the project can finally move forward. He asked Mr. Guski what the selling prices of the units would be. Mr. Guski responded that units will be starting at \$300,000 and go up from there. Alderman Mark stated this vacant lot needs to move forward.

Staff Recommendation was for Approval with 8 conditions. Objectors were present. Margaret Gillespie, adjacent property owner at 122-124 Franklin Place expressed concern with the reduction of side yard setback on the north side, which is adjacent to her property. She stated she is willing to compromise for this project, but felt a reduction to 30 feet is quite close to her property line. She was also concerned with the distance on the east boundary to the river.

In response, Mr. Stacey felt if they were to do a detailed study the sight line between the Applicant's project and Mrs. Gillespie's property would not change whether it was 53 feet or 30 feet.

Mark Mercer, 977 Indian Terrace, not an adjacent property owner, was present as an Objector. It was his feeling that going from 53 feet to 30 feet setback would impact the area. He also stated the seawall proposed will interfere with a sign that he is proposing to put up in the future. Mr. Stacey explained that these walls were actually only 2 or 3 feet high, planter walls.

Mr. Cagnoni explained the difference between the next item, which is a request for Renewal of a Special Use Permit versus the item now being heard which is for Modification of the Special Use Permit. The Application under discussion for this item deals with the building height, the north and south setback, and the number of dwelling units.

A **MOTION** was made by William Orr to **APPROVE** the Modification of Special Use Permit #076-05 (Ordinance #2005-244-0) for a Planned Residential Development including a high-rise residential structure, to increase the number of dwelling until to 76 (seventy-six), to reduce the building height from 173 (one hundred seventy-three) feet to 150 (one hundred fifty) feet, to reduce the side yard setback for the north property line from 53 (fifty-three) feet to 30 (thirty) feet, and to reduce the side yard setback for the south property line from 53 (fifty-three) feet to 30 (thirty) feet in an R-4, Multifamily Residential District

at 977, 993, and 995 North Main Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. A civil site plan shall be submitted for staff review and approval
2. The building/garage/terrace shall be located no closer than 50 (fifty) feet to the existing sea wall, with the sea wall extended in a straight line south
3. A pedestrian river walk (minimum ten feet wide) shall be accommodated on the development site
4. A Tentative and Final Plat shall be prepared for the entire property, and recordation of the Final Plat is required prior to issuance of a building permit
5. Detailed elevations shall be submitted to staff for review and are subject to staff approval
6. A detailed landscaping plan shall be submitted for staff review and approval
7. An illumination (photometrics) plan shall be submitted for staff review and approval
8. The property shall develop in general conformance with the submitted plans

ZBA 013-08

**Findings of Fact for a Modification of Special Use Permit #076-05 (Ordinance #2005-244-0)
For a Planned Residential Development Including a High-Rise Residential Structure,
to Increase the Number of Dwelling Units to 76 (Seventy Six);
To Reduce the Building Height from 173 (One Hundred Seventy-Three) Feet
To 150 (One Hundred Fifty) Feet;
To Reduce the Side Yard Setback for the North Property Line
From 53 (Fifty-Three) Feet to 30 (Thirty) Feet; and to Reduce the Side Yard Setback
For the South Property Line from 53 (Fifty-Three Feet) to 30 (Thirty) Feet
In an R-4, Multi-Family Residential District at
977, 993, 995 North Main Street**

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The proposed development will be consistent with other development in the area and will provide the necessary landscaping to enhance the development.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-4, Zoning District in which it is located.

014-08 977, 993, 995 North Main Street

Applicant Harbor Investments / Florian Guski

Ward 3 **Renewal of Special Use Permit #076-05 (Ordinance #2005-244-0) for:
(A) Special Use Permit for a Planned Residential Development** including a high-rise residential structure, pool and cabana;

(B) Variation in building height from the allowed 45 (forty-five) feet to 173 (one hundred seventy-three) feet;

(C) Variation in side yard setback for the north property line from the required 1,386 (one thousand three hundred eighty-six) feet to 53 (fifty-three) feet for the tower and 20 (twenty) feet for the parking garage;

(D) Variation in rear yard setback for the east property line from the required 138 (one hundred thirty-eight) feet to 104 (one-hundred four) feet for the tower and 32 (thirty-two) feet for the terrace;

(E) Variation in the side yard setback for the south property line from the required 420 (four hundred twenty) feet to 53 (fifty-three) feet for the tower and 20 (twenty) feet for the parking garage in an R-4, Multifamily District

The subject property is located approximately 30 feet southeast of the North Main and Franklin Place intersection, along the east side of North Main Street and the west side of the Rock River District and is currently vacant land. Florian Guski explained the Special Use Permit that is now in place will expire in June 2008. The time frame to redesign the project and get architectural drawings would push the project past the expiration date and so this request is for a renewal of the Special Use Permit.

Mr. Cagnoni reminded the Board that this is a separate request from the previous modification. A renewal is not a public hearing – it is strictly for the Board to approve or deny the Renewal with no changes or modifications to the original Special Use Permit.

Staff Recommendation was for Approval.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Renewal of Special Use Permit #076-05 (Ordinance #2005-244-0) for: **(A)** Special Use Permit for a Planned Residential Development including a high-rise residential structure, pool and cabana; **(B)** Variation in building height from the allowed 45 (forty-five) feet to 173 (one hundred seventy-three) feet; **(C)** Variation in side yard setback for the north property line from the required 1,386 (one thousand three hundred eighty-six) feet to 53 (fifty-three) feet for the tower and 20 (twenty) feet for the parking garage; **(D)** Variation in rear yard setback for the east property line from the required 138 (one hundred thirty-eight) feet to 104 (one-hundred four) feet for the tower and 32 (thirty-two) feet for the terrace; **(E)** Variation in the side yard setback for the south property line from the required 420 (four hundred twenty) feet to 53 (fifty-three) feet for the tower and 20 (twenty) feet for the parking garage in an R-4, Multifamily District at 977, 993 and 995 North Main Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 6-0.

ZBA 014-08

Findings of Fact for Renewal of Special Use Permit #076-05 (Ordinance #2005-244-0) for a Special Use Permit for a Planned Residential Development Including a High-Rise Residential Structure, Pool and Cabana In a R-4, Multi-Family Residential District at 977, 993 & 995 North Main Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community. The proposed development will be of density that is consistent with other development in the area and the underlined zoning.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The proposed development will be consistent with other development in the area and will provide the necessary landscaping to enhance the development.

3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-4, Multifamily Residential Zoning District in which it is located.

ZBA 014-08
Findings of Fact for a Variation
In Building Height from the Allowed 45 (Forty-Five) Feet
To 173 (One Hundred Seventy-Three) Feet
In an R-4, Multi-Family Residential District at
977, 993, and 995 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property. The request is to be allowed to reduce the footprint of development on the site.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located. The proposed building will compliment other developments in the area.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 014-08
Findings of Fact for a Variation
In Side Yard Setback for the North Property Line
From the Required 1,386 (One Thousand Three Hundred Eighty-Six) Feet
To 53 (Fifty-Three) Feet for the Tower and 20 (Twenty) Feet for the Parking Garage
In an R-4, Multi-family Residential District at
977, 993, and 995 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property. The required setback is unreasonable for development near the core of the City.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 014-08
Findings of Fact for a Variation
In Rear Yard Setback for the East Property Line
From the Required 138 (One Hundred Thirty Eight) Feet to 104 (One Hundred Four) Feet
For the Tower and 32 (Thirty Two) Feet for the Terrace
In an R-4, Multifamily Residential District at
977, 993, and 995 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.

3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property. The required setback is unreasonable for redevelopment in the core of the City.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 014-08
Findings of Fact for a Variation
In the Side Yard Setback for the South Property Line
From the Required 420 (Four Hundred Twenty) Feet
To 53 (Fifty Three) Feet for the Tower and 20 (Twenty) Feet for the Parking Garage
In an R-4, Multifamily Residential District at
977, 993, and 995 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property. The required setback is unreasonable for redevelopment in the core of the City.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

015-08

Applicant:
Ward 12

4850 North Main Street

Dale Gesner / Nabil Keedi

Modification of Special Use Permit #022-04 to include outside storage of licensed passenger vehicles, motor homes, travel trailers and boats in an I-1, Light Industrial District

The subject property is located approximately 100 feet southwest of the corner of North Main Street and Elmwood Road and is currently a storage facility / truck and trailer rental. Dale Gesner, Applicant, reviewed the request for outside storage of licensed vehicles. This request is a result of a violation to landscaping, and of outside storage of unauthorized vehicles. Mr. Sockwell asked how many vehicles the Applicant was anticipating. Mr. Gesner responded there would be between 20 and 25 in the front and south side of the property as shown on the site plan included with the Planning and Zoning Report.

Staff Recommendation was for Approval with 4 conditions. Objectors were present.

Attorney Robert Calgaro was present representing the Venetian Club at 2180 Elmwood Road. He stated the club has recently moved to this location and has been working with the City for plans for expansion of the parking lot and for anticipate further expansion. They feel the outside storage of these vehicles would be detrimental to the area. He stated his clients had worked with the Applicant when this project was originally proposed, but outside storage that is there now was not part of the proposal and they are objecting to any further allowances.

Attorney Ecklund was present, representing Tom and Kay Glenn, 48XX North Main Street which is directly to the south. Their property is AG and being farmed at this time. Attorney Ecklund pointed out that the Applicant has not continued landscaping along the south property line. The type of vehicles that they are now storing in violation are school buses, motor homes, etc., and are not covered by the landscaping. Attorney Ecklund showed photos as evidence. He stated the Glenn's are considering residential development on their property and is requesting that landscaping be improved to allow growth to cover future uses.

In response, Mr. Gesner stated when the C-2 property is developed, landscaping will be done at that time. In response to the Venetian Club's concerns, Mr. Gesner stated that they are using an unpaved surface for driving and parking on the weekends.

Mr. Sockwell asked Mr. Gesner how long the stored vehicles would be on the location. Mr. Gesner stated a lot of these are seasonal vehicles such as motor homes that are not used much in the winter. Parking areas will be marked. Storage is on a month-to-month lease for the most part. Some are 6 months at a time, but mostly month-to-month.

During Board discussion, Tom Przytulski stated there has been a lot of talk by the Board regarding the corridors to the City and their efforts to improve them. He states he personally drives this road frequently and feels this parcel is very unattractive. He stressed that the Applicant came before the Board originally and requested outside parking for leased vehicles only and immediately began parking his own vehicles on the lot. He feels that if this item is approved there is no telling what type of vehicles the Applicant will store outside based on his previous actions.

A **MOTION** was made by Tom Przytulski to **DENY** the Modification of Special Use Permit #022-04 to include outside storage of licensed passenger vehicles, motor homes, travel trailers and boats in an I-1, Light Industrial District at 4850 North Main Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-1 with Fred Money voting Nay.

ZBA 015-08
Findings of Fact for a Modification of Special Use Permit #022-04
To Include Outside Storage of Licensed Passenger Vehicles,
Motor Homes, Travel Trailers and Boats
In an I-1, Light Industrial District at
4850 North Main Street

Denial of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will impede the normal or orderly development and improvement of the surrounding property for uses permitted in the I-1 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does not conform to the applicable regulations of the I-1 Zoning District in which it is located and conditions of approval.

Other Business

Fred Money announced that he will be leaving the Zoning Board of Appeals and the Liquor Advisory Board. His last attendance will be April 15, 2008. The Board wished him well and Mr. Cagnoni thanked him for his dedication to the City during his tenure.

With no further business to come before the Board, the meeting was adjourned at 8:15 PM

Respectfully submitted,

Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals